

THE COMPLIANCE CONNECTION

REGULATORY NEWS FOR VIRGINIA MORTGAGE COMPANIES
STATE CORPORATION COMMISSION - BUREAU OF FINANCIAL INSTITUTIONS

2016 VOLUME II



The Compliance Connection is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage and industrial loan association licensees, and other interested parties. It is the licensee's responsibility to read this newsletter and to be familiar with the positions and interpretations stated herein.

Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at P.O. Box 640, Richmond, VA 23218-0640 or via email at bfquestions@sc.virginia.gov.

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2017 License Renewal Period

With the exception of licenses granted during the last two months of the year, all mortgage lender, mortgage broker, and mortgage loan originator licenses expire at the end of each calendar year unless renewed by the licensee through NMLS prior to the expiration date. Licensees can submit their 2017 renewal requests through NMLS starting on November 1, 2016. All licensees are encouraged to submit their renewal requests through NMLS as soon as possible. Please note that mortgage lender and mortgage broker office locations must also be renewed. The Bureau of Financial Institutions cannot guarantee that renewal requests submitted after December 12 will be processed prior to the end of the year. License-specific renewal requirements and detailed filing instructions can be reviewed on the [NMLS Resource Center](#).

Solicitation Letters Cause Concern

The Bureau often receives calls from mortgage lenders and mortgage brokers who are concerned about solicitations sent to their mortgage borrowers by other mortgage companies. They claim that borrowers are confused when reading the solicitations that indicate they can lower their mortgage rate because either they have just refinanced their loan (presumably to obtain a lower rate) or on first glance, the solicitation appears to be sent by the company from whom they just obtained the loan.

After further review, and sometimes the use of a magnifying glass, the mystery is solved. The sender is a competitor, who has purchased prescreened credit information from one of the credit bureaus or researched public records to obtain some basic information on the borrower's recently recorded mortgage loan. Callers have told us that their customers were concerned because when they first read the letter, it appeared as though there was a problem with their current mortgage. Other statements are that the customer was confused as to why their mortgage company would be contacting them so soon to refinance their loan again. If you receive these troubling calls, we ask you to encourage the customer to file a complaint with the Bureau, so we can review the matter for compliance.

Virginia Regulation 10 VAC 5-160-60 sets forth certain requirements and prohibitions relating to advertisements. Below are some of the prohibitions:

- Including statements that deceptively advertise a mortgage loan, make false or misleading statements or representations, or misrepresent the terms, conditions or charges incident to obtaining a mortgage loan
- Failing to identify the source of the specific information about the consumer's existing mortgage (e.g. public court records, credit reporting agency, etc.)
- Giving a consumer the false impression that the advertisement was sent by the consumer's current noteholder and not listing the sender's name as conspicuously as the name of the current noteholder
- Including a statement that the mortgage lender or mortgage

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Procedure for Name Changes

Mortgage lender and broker licensees that wish to change their legal name or add a trade name for use in Virginia should follow the following procedures:

- Provide at least 30 days advance notice of the change through the Company Form (MU1) in NMLS
- Make any required filings with the Virginia State Corporation Commission's Clerk's Office (see the Virginia Mortgage Lender and Broker Amendment Checklists on the [NMLS Resource Center](#) for additional details)
- Submit a surety bond rider amending the bond principal's name. The bond principal's name must reflect the full legal name of company as registered with the Virginia State Corporation Commission, including any trade names.



Licensees shall not begin conducting Virginia business under the new name until the name has been authorized by the Commission, as evidenced by the amended license certificate(s). Licensees that use any name other than the name set forth on their license may be cited for violating §§ 6.2-1607 A and 6.2-1614 8 (b) of the Code of Virginia.

Solicitation Letters Cause Concern (continued from page 1)

broker is affiliated with, or an agent or division of, a governmental agency, depository institution, or other entity with which no such relationship exists

- Including statements or graphics on envelopes, letters, or other written material that give the false impression that the mailing is an official communication from a government entity, unless required by the U.S. Postal Service

Obtaining complaints directly from the consumer is helpful since it documents the consumer's interpretation of the solicitation he or she received. We simply need the consumer to state his or her concern and include a copy of the mailer (front and back) and envelope.

Information on how to file a complaint is located at: <http://www.scc.virginia.gov/bfi/complain.aspx>. On this page, a complaint form is also provided. The form can be printed, completed and mailed to the Bureau or faxed to our office. Both the address and the fax number are on the form.

If you keep up with settlement orders listed in every issue of this publication, you might notice that advertising violations (10 VAC 5-160-60) have been part of a growing number of regulatory actions taken by the Commission. Please make sure your company has a robust compliance policy and adequate resources to ensure compliance in this area. Violations of applicable laws and regulations are subject to a civil penalty of up to \$2,500 per violation, pursuant to § 6.2-1624 of the Code of Virginia ("Code") or suspension or revocation of license pursuant to § 6.2-1619 of the Code.

You may also want to inform consumers that they may be able to reduce the number of prescreened credit and insurance offers they receive by calling 1-888-5-OPT-OUT (1-888-567-8688) or visiting www.optoutprescreen.com. Consumers can choose to "opt out" for a five year period or permanently. Additional information about Prescreened Credit and Insurance Offers can be found at <https://www.consumer.ftc.gov/articles/0148-prescreened-credit-and-insurance-offers>.



License Update

The following is a list of companies and individuals that have been barred, had their license revoked, had an application denied, or paid a fine or civil penalty since April 15, 2016. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of October 5, 2016. Call the Bureau if you have a question concerning a recent denial or regulatory action taken by the Commission.

Settlement Orders

MC – 1562 Washington Home Mortgage, LLC -- order entered June 3, 2016. Paid \$6,000 for violations of §§ 6.2-406, 6.2-1610, 6.2-1612 and 6.2-1614 (1) of the Code of Virginia as well as 10 VAC 5-160-50 and 10 VAC 5-160-90 D of the Commission's Rules Governing Mortgage Lenders and Brokers.

MC – 5897 The Premier Mortgage Company, LLC – order entered June 17, 2016. Paid \$10,000 for violations of §§ 6.2-406 A 1, 6.2-406 A 3, 6.2-1614 (1) & (8)a of the Code of Virginia, and 10 VAC 5-160-20 (7), 10 VAC 5-160-50 B, 10 VAC 5-160-60 A(2), 10 VAC 5-160-60 F & G of the Commission's Rules Governing Mortgage Lenders and Brokers.

MC – 5704 American Financial Network, Inc. – order entered August 15, 2016. Paid \$10,000 for violations of §§ 6.2-406, 6.2-1601 A and 6.2-1614 (8)(b) of the Code of Virginia as well as 10 VAC 5-160-60 A 2 and 10 VAC 5-160-60 F of the Commission's Rules Governing Mortgage Lenders and Brokers.

MC – 2457 American Nationwide Mortgage Company, Inc. – order entered August 23, 2016. Paid \$3,000 for violations of § 6.2-1614 (8) (a), 10 VAC 5-160-60 A 1 and 10 VAC 5-160-60 A 2 of the Commission's Rules Governing Mortgage Lenders and Brokers.

Cease and Desist Orders: (pursuant to § 6.2-1721 of the Code of Virginia)

James Guyoung Park – cease and desist order entered April 29, 2016 requiring the defendant to cease and desist from engaging in business as a mortgage loan originator without the required license. See also MC – 5897 above.

Licensing Reminder

Do you know what type(s) of license you hold with the State Corporation Commission? Do you know what types of activities the license(s) allows your company to conduct? Examiners discover that some licensees think that having a mortgage lender license in Virginia gives them authority to act as a mortgage broker as well. This is incorrect.

In Virginia, a company can be licensed as a mortgage lender, a mortgage broker, or have dual authority to act as both a mortgage lender and a mortgage broker. Companies who wish to broker and lend on Virginia residential property must apply for both the mortgage broker and mortgage lender licenses.

Licensees are warned that acting as a lender or broker without the proper license may result in a recommendation to impose regulatory action (such as a civil penalty, suspension and/or revocation of license).

MC / MLO Stats: (as of October 5, 2016)

791	number of approved mortgage lenders and mortgage brokers, with
2,046	approved branches
14,776	number of approved MLOs
1,986	MLOs in approved inactive status (no loan origination allowed in this status!)
562	number of MLO applications pending
7,440	number of MLOs who, according to NMLS, have not yet met the 2016 continuing education requirements

NMLS Mortgage Call Reports

All companies holding a Virginia mortgage license or companies employing Virginia licensed mortgage loan originators must complete the Mortgage Call Report (MCR) on a quarterly basis and submit it through NMLS. The MCR has two components: the Residential Mortgage Lending Activity (RMLA) component and the Financial Condition (FC) component. The RMLA must be filed within 45 days following the end of each quarter. The filing deadlines are the same each year and are as follows:

1st quarter ends March 31—MCR due May 15th
 2nd quarter ends June 30—MCR due August 14
 3rd quarter ends September 30—MCR due November 14
 4th quarter ends December 31—MCR due February 14

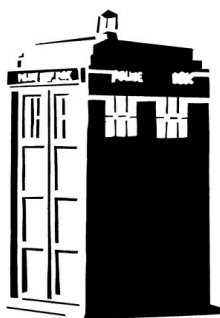
The FC component collects financial information at the company level and does not have to be completed on a state by state basis. (One FC is submitted for all states). For licensees filing the standard MCR, the company's FC is due annually, within 90 days of your company's Fiscal Year End. For licensees filing an expanded MCR, the company's FC must be submitted quarterly, within 45 days of the end of every quarter.

During our review of recent MCR filings we noticed that some licensees are including loans they have purchased from other lenders or investors in the loan totals. Loans purchased from other lenders or investors should not be included in the loan totals in RMLA Section I but should be included on line 1220 in RMLA Section II. Please be guided accordingly with future MCR filings.

Please note that if the MCR is not filed or not filed in a timely manner, the licensee will be cited for violations of § 6.2-1610 of the Code of Virginia ("Code") during our examination of the licensee and during our normal review of company MCR filings. In addition, pursuant to § 6.2-1624 of the Code, the Commission can impose a civil penalty on the licensee of up to \$2,500 per violation or pursuant to § 6.2-1619 of the Code, suspend or revoke the license.

If you have questions or need assistance with filing your company's MCR, contact the NMLS Call Center at 855-665-7123. For additional information, visit the NMLS Resource Center at: <http://mortgage.nationwidelicensingsystem.org/Pages/default.aspx>.

IMPORTANT COMMISSION TELEPHONE NUMBERS



Licensing (applications, name changes, relocations)	(804) 371-9690
Non-Depository Supervision (mortgage examinations)	(804) 371-9701
Non-Depository Consumer Complaints	(804) 371-9701
Depository Supervision (banks/credit union exams)	(804) 371-9704
Corporate Information – Clerk's Office	(804) 371-9733
FAX Number - Bureau of Financial Institutions	(804) 371-9416



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